IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting

(Chapter VIII, Rule 32(2) (b)

Description of Case

Criminal Misc. Application No. 225 of 2005

Ashok @ Banty & others

Versus

State & another

Date of decision :- 04-08-05

A.F.R. (Approved for Reporting)

Not approved for reporting

Date :- August 4, 2005 Initials of Judge

Note :- Bench Reader will attach this at the top of the first page of the Judgment when it is put up before the Judge for signature.

IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

CRIMINAL MISC. APPLICATION NO. 225 of 2005

Ashok alias Banty and others .....Applicants

VERSUS

1. State of Uttaranchal
2. Smt. Anaro Devi ---------- Respondents.

Dated:- 04-08-2005

Hon'ble J.C.S. Rawat, J.

1. Heard Sri Ramjee Srivastava learned counsel for the applicants, Sri S.S.Sandhu, learned AGA for the State and Sri P.S.Rawat learned counsel for respondents and perused the record.

2. This is an application under section 482 Cr.P.C. for quashing the order dated 10.2.2005 passed in criminal case no.38 of 2005 Smt. Anaro Vs. Ashok and others by the Judicial Magistrate, Kashipur

3. The brief facts relating to this case are that a complaint was filed before the court below in which it has been alleged that on 21.1.2005 at about 12 noon the accused applicants entered into the house of respondent no.2 and hurled filthy abuses and also threatened her saying that respondent no.2 refused the marriage of her daughter with applicant no.1 otherwise her family will be ruined. It has further been alleged in the complaint that on hearing of hue and cry the witnesses of locality came at the spot. A complaint was filed before the court concerned. The learned trial court examined the complainant u/s 200 Cr.P.C. and her witnesses u/s 202 Cr.P.C. Thereafter the learned

Magistrate after perusal of the record took the cognizance and summoned the applicants-accused under sections 323, 147, 452, 504, 506, 354 and 427 IPC. Feeling aggrieved by the said order the present application u/s 482 Cr.P.C. has been filed before this court.

4. It was contended on behalf of the applicants that the learned Magistrate has passed the order mechanically. It was further contended that the learned Magistrate has indicated in the impugned order that both the witnesses have stated in their statements that the Marpeet took place and the applicants-accused hurled abused upon respondent no.2 and they also threatened to the complainant for dire consequences. It was also mentioned in the order that the accused caused damages to respondent no.2 to the tune of Rs.1000/-. The learned trial court has further observed that the accused used objectionable language with the complainant. The perusal of the statements u/s 200 and 202 Cr.P.C. reveals that there are so many acts which are not stated in the statements which have been observed by the trial court. It was further pointed out that there is no evidence with regard to ingredients of section 354 IPC and other offences. The perusal of the impugned order reveals that the learned Magistrate has passed the order in cursory manner. As such the impugned order is liable to be set aside and is quashed. The case is remanded back to the learned trial court with the directions that the learned Magistrate shall give an opportunity the complainant respondent no.2 to adduce evidence, if any and thereafter shall proceed with the case according to law.

5. The petition is disposed of accordingly.

(J.C.S. Rawat, J).

Dated: August 4, 2005

MPS